

**UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF TEXAS,
HOUSTON DIVISION**

CLARISSA SWEET,	§	
	§	
Plaintiff,	§	
	§	
v.	§	No.
	§	
H&P CAPITAL, INC.,	§	
	§	
Defendant.	§	

PLAINTIFF’S COMPLAINT AND DEMAND FOR JURY TRIAL

CLARISSA SWEET (Plaintiff), through her attorneys, KROHN & MOSS, LTD., alleges the following against H&P CAPITAL, INC., (Defendant):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”
4. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.
5. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

PARTIES

6. Plaintiff is a natural person residing in Houston, Harris County, Texas.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
8. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is a national debt collection company and conducts business in Texas.

FACTUAL ALLEGATIONS

10. Defendant placed collection calls to Plaintiff seeking and demanding payment for an alleged debt for a payday loan.
11. Defendant failed to identify itself as a debt collector to Plaintiff.
12. Defendant identified itself as a 'mediations firm' to Plaintiff and told Plaintiff that Defendant was pulling up Plaintiff's affidavit that was due to be sent out to Harris County at 8:00 a.m. To date, Defendant has not taken any legal action against Plaintiff.
13. Defendant told Plaintiff that Defendant was not a collection agency or a law firm.
14. Defendant told Plaintiff to pay the alleged debt by 11:00 a.m. the next morning or Defendant would send Plaintiff's account to the local county and take Plaintiff to jail.

COUNT I DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

15. Defendant violated the FDCPA based on the following:
 - a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse the Plaintiff.
 - b. Defendant violated §1692e of the FDCPA by false, deceptive, or misleading

representation or means in connection with the debt collection.

- c. Defendant violated §1692e(2) of the FDCPA by misrepresenting the character, amount, or legal status of the alleged debt.
- d. Defendant violated §1692e(4) of the FDCPA by stating that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment.
- e. Defendant violated §1692e(5) of the FDCPA by threatening to take any action that cannot legally be taken or that is not intended to be taken.
- f. Defendant violated §1692e(14) of the FDCPA by using any name other than the true name of the debt collector's business.
- g. Defendant violated §1692e(10) of the FDCPA by any false representation or deceptive means to collect a debt or obtain information about a consumer.
- h. Defendant violated §1692e(11) of the FDCPA by failing to communicate the mini-Miranda warning: "This is an attempt to collect a debt.....communication is from a debt collector."

WHEREFORE, Plaintiff, CLARISSA SWEET, respectfully requests judgment be entered against Defendant, H&P CAPITAL, INC., for the following:

- 16. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,
- 17. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k , and
- 18. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

Dated: January 28, 2011

By: /s/Michael Agruss,
Michael Agruss Esq.
CA SBN: 259567
Attorney for Plaintiff
Krohn & Moss, Ltd.
10474 Santa Monica Blvd., Suite 401
Los Angeles, CA 90025
magruss@consumerlawcenter.com
Phone: (323) 988-2400 x 235
Fax: (866) 799-3206

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, CLARISSA SWEET, demands a jury trial in this case.

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF TEXAS

Plaintiff, CLARISSA SWEET, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, CLARISSA SWEET, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

11/05/2010
Date


CLARISSA SWEET

PLAINTIFF'S COMPLAINT

5